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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

TIMMY JOHN WEBER,

Petitioner,

vs.

WILLIAM GITTERE, *et al.*,

Respondents.

Case No. 3:11-cv-00104-RFB-WGC

**UNOPPOSED MOTION FOR
ENLARGEMENT OF TIME TO FILE
RESPONSE TO THIRD AMENDED
PETITION (ECF NO. 79)**

(SECOND REQUEST)

(DEATH PENALTY)

Respondents move this Court for an enlargement of time of forty-five (45) days from the current due date of November 30, 2021, up to and including January 14, 2022, in which to file their Response to Timmy John Weber's Third Amended Petition for Writ of Habeas Corpus (ECF No. 79). This Motion is made pursuant to FED. R. CIV. P. 6(b) and Rule 6-1 of the Local Rules of Practice and is based upon the attached declaration of counsel. This is the second enlargement of time sought by Respondents to file the response to the Third Amended Petition, and the request is brought in good faith and not for the purpose of delay.

DATED: November 29, 2021.

Submitted by:

AARON D. FORD
Attorney General

By: /s/ Erica Berrett
Erica Berrett (Bar. No. 13826)
Deputy Attorney General

DECLARATION OF ERICA BERRETT

STATE OF NEVADA)
) ss:
COUNTY OF CLARK)

I, ERICA BERRETT, being first duly sworn under oath, deposes and states as follows:

1. I am an attorney licensed to practice law in all courts within the State of Nevada and am employed as a Deputy Attorney General in the Office of the Nevada Attorney General. I have been assigned to represent Respondents in *Timmy John Weber v. William Gittere, et al.*, Case No. 3:11-cv-00104-RFB-WGC, and as such, have personal knowledge of the matters contained herein.

2. This Motion is made in good faith and not for the purpose of delay.

3. The deadline to file the response to the Third Amended Petition (ECF No. 79) is November 30, 2021.

4. Since Respondents' previous motion for enlargement, I have had to work on several other federal habeas matters, including filing a motion to dismiss petition for writ of habeas corpus in *Randolph v. Baker, et al.*, Case No. 2:18-cv-00449-RFB-VCF; a motion to dismiss in *Pritchett v. Gentry, et al.*, Case No. 2:17-cv-01694-JAD-CWH; a motion to dismiss in *Marquez v. Neven, et al.*, Case No. 2:20-cv-00073-RCJ-WGC; a motion to dismiss in *Holman v. Johnson, et al.*, Case No. 2:21-cv-00266-APG-NJK; and a reply to motion to dismiss in *Marquez v. Neven, et al.*, Case No. 2:20-cv-00073-RCJ-WGC. I have also been working on a motion to dismiss in *Navarrette v. Johnson, et al.*, Case No. 2:20-cv-02061-APG-DJA.

5. Although I had set aside time to work on the response to Petitioner's Third Amended Petition, I had to adjust my schedule based on the Ninth Circuit Court of Appeals setting my oral argument in the matter *Sempier v. Baker, et al.*, Case No. 20-17249/3:18-cv-00465-RCJ-WGC. Oral argument was scheduled for December 10, 2021. Preparation for oral argument consumed my time over recent weeks, and I only learned late on November 24, 2021 that the matter has now been submitted on the briefs. Therefore, I need additional time to work on Respondents' response to the Third Amended Petition.

6. I contacted Petitioner's counsel regarding this request, and she indicated that she does not oppose it.

5 /s/ Erica Berrett
Erica Berrett (Bar No. 13826)

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12 DATED this 1st day of December, 2021.

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing *Unopposed Motion For Enlargement Of Time To File Response To Third Amended Petition (ECF No. 79) (Second Request)* with the Clerk of the Court by using the CM/ECF system on November 29, 2021.

The following participants in this case are registered CM/ECF users and will be serve by the CM/ECF system:

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/s/ M. Landreth
An employee of the Office of the Attorney General